

AMENDED IN SENATE JULY 7, 2015
AMENDED IN ASSEMBLY MAY 6, 2015
AMENDED IN ASSEMBLY APRIL 22, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 564

Introduced by Assembly Member Eggman

February 24, 2015

An act to amend *Section 4677, to amend, repeal, and add Section 4784 of of, and to repeal Section 4782 of, the Welfare and Institutions Code, relating to developmental services, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 564, as amended, Eggman. Regional centers: parental fees.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is required to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Existing law requires the Director of Developmental Services to establish, annually review, and adjust as needed, a schedule of parental fees ~~for services received through the regional centers: to be paid by parents of children under 18 years of age who are receiving 24-hour out-of-home care services through a regional center or who are residents of a state hospital or on leave from the state hospital.~~

Existing law provides that all parental fees collected by or for regional centers are remitted to the State Treasury to be deposited in the Program Development Fund, a continuously appropriated fund.

~~This bill would require the Director of Developmental Services to account for major unusual expenses in establishing the amount of the parental fee, and to adjust the parental fee schedule for the level of annual gross income and the number of persons living in the family home. To the extent fees are increased by this adjustment, this bill would make an appropriation. This bill would also authorize a parent to appeal the parental fee determination and would require the department to consider specified information when evaluating the appeal. would, effective July 1, 2016, revise and recast those provisions by, among other things, calculating monthly parental fees based on a percentage of the parents' annual income and authorizing a credit of the equivalent of one day of the monthly parental fee for each day a child spends 6 or more consecutive hours in a 24-hour period on a home visit. The bill would prohibit a monthly parental fee from exceeding the maximum monthly cost of caring for a child or the cost of services provided, whichever is less. The bill would require, for parents of children placed in 24-hour out-of-home care prior to July 1, 2016, the monthly parental fee to be recalculated at the time of the parents' annual fee recalculation. The bill would make other related and conforming changes. To the extent monthly parental fees are increased by these provisions, this bill would make an appropriation.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4677 of the Welfare and Institutions Code
2 is amended to read:
3 4677. (a) (1) All parental fees collected by or for regional
4 centers shall be remitted to the State Treasury to be deposited in
5 the Developmental Disabilities Program Development Fund, which
6 is hereby created *in the State Treasury* and hereinafter called the
7 Program Development Fund. The purpose of the Program
8 Development Fund shall be to provide resources needed to initiate
9 new programs, and to expand or convert existing programs. Within
10 the context of, and consistent with, approved priorities for program
11 development in the state plan, program development funds shall

1 promote integrated residential, work, instructional, social, civic,
2 volunteer, and recreational services and supports that increase
3 opportunities for self-determination and maximum independence
4 of persons with developmental disabilities. Notwithstanding any
5 other law or regulation, commencing July 1, 2009, parental fees
6 remitted to the State Treasury shall be deposited in accordance
7 with Section 4784.

8 (2) In no event shall an allocation from the Program
9 Development Fund be granted for more than 24 months.

10 (b) (1) The State Council on Developmental Disabilities shall,
11 at least once every five years, request from all regional centers
12 information on the types and amounts of services and supports
13 needed, but currently unavailable.

14 (2) The state council shall work collaboratively with the
15 department and the Association of Regional Center Agencies to
16 develop standardized forms and protocols that shall be used by all
17 regional centers and the state council in collecting and reporting
18 this information. In addition to identifying services and supports
19 that are needed, but currently unavailable, the forms and protocols
20 shall also solicit input and suggestions on alternative and innovative
21 service delivery models that would address consumer needs.

22 (3) In addition to the information provided pursuant to paragraph
23 (2), the state council may utilize information from other sources,
24 including, but not limited to, public hearings, quality assurance
25 assessments conducted pursuant to Section 4571, regional center
26 reports on alternative service delivery submitted to the department
27 pursuant to Section 4669.2, and the annual report on self-directed
28 services produced pursuant to Section 4685.7.

29 (4) The department shall provide additional information, as
30 requested by the state council.

31 (5) Based on the information provided by the regional centers
32 and other agencies, the state council shall develop an assessment
33 of the need for new, expanded, or converted community services
34 and support, and make that assessment available to the public. The
35 assessment shall include a discussion of the type and amount of
36 services and supports necessary but currently unavailable including
37 the impact on consumers with common characteristics, including,
38 but not limited to, disability, specified geographic regions, age,
39 and ethnicity, face distinct challenges. The assessment shall

1 highlight alternative and innovative service delivery models
2 identified through their assessment process.

3 (6) This needs assessment shall be conducted at least once every
4 five years and updated annually. The assessment shall be included
5 in the state plan and shall be provided to the department and to the
6 appropriate committees of the Legislature. The assessment and
7 annual updates shall be made available to the public. The State
8 Council on Developmental Disabilities, in consultation with the
9 department, shall make a recommendation to the Department of
10 Finance as to the level of funding for program development to be
11 included in the Governor's Budget, based upon this needs
12 assessment.

13 ~~(e) Parental fee schedules shall be evaluated pursuant to Section~~
14 ~~4784 and adjusted annually, as needed, by the department, with~~
15 ~~the approval of the state council. The July 1, 2009, parental fee~~
16 ~~adjustment shall be exempt from this approval requirement. Fees~~
17 ~~for out-of-home care shall bear an equitable relationship to the~~
18 ~~cost of the care and the ability of the family to pay.~~

19 ~~(d)~~

20 (c) In addition to parental fees and General Fund appropriations,
21 the Program Development Fund may be augmented by federal
22 funds available to the state for program development purposes,
23 when these funds are allotted to the Program Development Fund
24 in the state plan. The Program Development Fund ~~is is,~~
25 *notwithstanding Section 13340 of the Government Code*, hereby
26 *continuously* appropriated to the department, and subject to any
27 allocations that may be made in the annual Budget Act. In no event
28 shall any of these funds revert to the General Fund.

29 ~~(e)~~

30 (d) The department may allocate funds from the Program
31 Development Fund for any legal purpose, provided that requests
32 for proposals and allocations are approved by the state council in
33 consultation with the department, and are consistent with the
34 priorities for program development in the state plan. Allocations
35 from the Program Development Fund shall take into consideration
36 the following factors:

37 (1) The future fiscal impact of the allocations on other state
38 supported services and supports for persons with developmental
39 disabilities.

1 (2) (A) The information on priority services and supports
2 needed, but currently unavailable, submitted by the regional
3 centers.

4 (B) Consistent with the level of need as determined in the state
5 plan, excess parental fees may be used for purposes other than
6 programs specified in subdivision (a) only when specifically
7 appropriated to the State Department of Developmental Services
8 for those purposes.

9 (f)

10 (e) Under no circumstances shall the deposit of federal moneys
11 into the Program Development Fund be construed as requiring the
12 State Department of Developmental Services to comply with a
13 definition of “developmental disabilities” and “services for persons
14 with developmental disabilities” other than as specified in
15 subdivisions (a) and (b) of Section 4512 for the purposes of
16 determining eligibility for developmental services or for allocating
17 parental fees and state general funds deposited in the Program
18 Development Fund.

19 *SEC. 2. Section 4782 of the Welfare and Institutions Code is*
20 *repealed.*

21 ~~4782. Parents of children under the age of 18 years who are~~
22 ~~receiving 24-hour out-of-home care services through a regional~~
23 ~~center or who are residents of a state hospital or on leave from the~~
24 ~~state hospital shall be required to pay a fee depending upon their~~
25 ~~ability to pay, but not to exceed (1) the cost of caring for a normal~~
26 ~~child at home, as determined by the Director of Developmental~~
27 ~~Services, or (2) the cost of services provided, whichever is less.~~
28 ~~The State Department of Developmental Services shall determine,~~
29 ~~assess, and collect all parental fees in the manner as provided in~~
30 ~~Section 7513.2. The method of determination of the amount of the~~
31 ~~fee shall be the same, whether the child is placed in the state~~
32 ~~hospital or in a public or private community facility. In no event,~~
33 ~~however, shall parents be charged for diagnosis or counseling~~
34 ~~services received through the regional centers.~~

35 **SECTION 1.**

36 *SEC. 3. Section 4784 of the Welfare and Institutions Code is*
37 *amended to read:*

38 4784. (a) The Director of Developmental Services shall
39 establish, annually review, and adjust as needed, a schedule of
40 parental fees for services received through the regional centers.

1 Effective July 1, 2009, this schedule shall be revised to reflect
2 changes in economic conditions that affect parents' ability to pay
3 the fee, but not to exceed an inflationary factor as determined by
4 the department.

5 (b) The parental fee schedule established pursuant to this section
6 shall be exempt from Chapter 3.5 (commencing with Section
7 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

8 (c) In establishing the amount parents shall pay, the director
9 shall take into account all of the following factors:

10 (1) The current cost of caring for a child at home, as determined
11 by the most recent data available from the United States
12 Department of Agriculture's survey on the cost of raising a child
13 in California, adjusted for the Consumer Price Index (CPI) from
14 the survey date to the date of payment adjustment.

15 (2) Medical expenses incurred prior to regional center care.

16 (3) Whether the child is living at home.

17 (4) Parental payments for medical expenses, clothing,
18 incidentals, and other items considered necessary for the normal
19 rearing of a child.

20 (5) Transportation expenses incurred in visiting a child.

21 ~~(6) Major unusual expenses, including, but not limited to,~~
22 ~~expenses caused by a natural disaster, catastrophic uninsured loss,~~
23 ~~or significant recent medical expenses.~~

24 (d) The parental fee schedule shall exempt families with an
25 income below the federal poverty level from assessment and
26 payment of the parental fee.

27 ~~(e) The parental fee schedule shall be adjusted for the level of~~
28 ~~annual gross income and the number of persons living in the family~~
29 ~~home.~~

30 ~~(f)~~

31 (e) (1) The adjusted fee shall be assessed in full for children
32 when the out-of-home placement commences on or after July 1,
33 2009.

34 (2) For children placed out-of-home prior to July 1, 2009, the
35 department shall determine the increase in the parental fee above
36 the amount assessed using the fee schedule in effect on June 30,
37 2009. This fee increase shall be implemented over three years,
38 with one-third of the increase added to the fee on July 1, 2009,
39 one-third of the increase added to the fee on July 1, 2010, and the
40 final third added to the fee on July 1, 2011.

1 ~~(g)~~

2 (f) Notwithstanding any other ~~law or regulation~~, law,
3 commencing July 1, 2009, all fees collected shall be remitted to
4 the State Treasury to be deposited as follows:

5 (1) Fees collected up to the amount that would be assessed using
6 the fee schedule in effect on June 30, 2009, shall be deposited into
7 the Program Development Fund established in Chapter 6
8 (commencing with Section 4670) to provide resources needed to
9 initiate new programs, consistent with approved priorities for
10 program development in the state plan.

11 (2) Fees collected using the July 1, 2009, schedule that are
12 greater than the amount that would have been assessed using the
13 fee schedule in effect on June 30, 2009, shall be deposited into the
14 Program Development Fund and shall be available for expenditure
15 by the department to offset General Fund costs.

16 ~~(h) The following apply to the imposition of a parental fee under~~
17 ~~this section:~~

18 ~~(1) A parent may appeal the department's determination of the~~
19 ~~amount the parent is required to pay pursuant to regulations~~
20 ~~established by the department.~~

21 ~~(2) The department shall consider the same information~~
22 ~~regarding a parent's gross income and the factors listed in~~
23 ~~subdivision (c) when considering an appeal of a parental fee~~
24 ~~determination.~~

25 ~~(3) If a parental fee is adjusted as a result of an appeal, the~~
26 ~~amount of the adjusted parental fee imposed shall be determined~~
27 ~~in accordance with the parental fee schedule.~~

28 (g) *This section shall become inoperative on July 1, 2016, and,*
29 *as of January 1, 2017, is repealed, unless a later enacted statute,*
30 *that becomes operative on or before January 1, 2017, deletes or*
31 *extends the dates on which it becomes inoperative and is repealed.*

32 SEC. 4. *Section 4784 is added to the Welfare and Institutions*
33 *Code, to read:*

34 4784. (a) *The department shall assess a monthly fee to parents*
35 *of children under 18 years of age who are receiving 24-hour*
36 *out-of-home care services through a regional center or as a*
37 *resident of a state hospital when the family's gross income is above*
38 *200 percent of the federal poverty level.*

39 (b) *The monthly parental fees and credits established pursuant*
40 *to this section shall be exempt from Chapter 3.5 (commencing with*

1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
2 Code.

3 (c) A monthly parental fee described in this section shall be
4 assessed beginning 60 days from the date of the child's placement
5 in 24-hour out-of-home care.

6 (d) For the purpose of assessing the fee, parents shall provide
7 income documentation to the department within 30 days of the
8 date the department requested the documentation. Income
9 documentation shall include a copy of a parent's most recent
10 federal tax return or a copy of each parent's most recent paystub
11 or employer-provided earnings statement, issued within 60 days
12 of the date the department requested the documentation. A
13 self-employed parent shall document his or her income by
14 providing a copy of his or her most recent federal tax return. A
15 parent without income documentation shall report and certify his
16 or her income on a form provided by the department.

17 (e) (1) The monthly parental fee for parents who timely submit
18 income documentation or from whom the department does not
19 request income documentation shall be as follows:

20 (A) Parents who have a family income of 201 percent to 300
21 percent, inclusive, of the current federal poverty level shall be
22 assessed a monthly fee of 3 percent of their annual gross income,
23 divided by 12.

24 (B) Parents who have a family income of 301 percent to 400
25 percent, inclusive, of the current federal poverty level shall be
26 assessed a monthly fee of 4 percent of their annual gross income,
27 divided by 12.

28 (C) Parents who have a family income of 401 percent to 500
29 percent, inclusive, of the current federal poverty level shall be
30 assessed a monthly fee of 5 percent of their annual gross income,
31 divided by 12.

32 (D) Parents who have a family income of 501 percent or more
33 of the current federal poverty level shall be assessed a monthly
34 fee of 6 percent of their annual gross income, divided by 12.

35 (2) The monthly parental fee for parents who fail to provide
36 income documentation to the department within 30 days of the
37 date the department requested the documentation shall be
38 equivalent to the maximum monthly cost of caring for a child, as
39 determined by the most recent data available from the United
40 States Department of Agriculture's survey on the cost of raising

1 a child in the west region. However, if parents whose monthly
2 parental fee is calculated pursuant to this paragraph later provide
3 the required income documentation, their monthly parental fee
4 shall be recalculated pursuant to paragraph (1) and retroactively
5 adjusted based on the income information provided.

6 (3) A monthly parental fee assessed pursuant to this section
7 shall not exceed the maximum monthly cost of caring for a child,
8 as determined by the most recent data available from the United
9 States Department of Agriculture's survey on the cost of raising
10 a child in the west region, or the cost of the services provided,
11 whichever is less.

12 (4) A monthly parental fee assessed pursuant to this section
13 shall be recalculated every 12 months, on the date of the original
14 fee assessment, and within 60 days of the date a parent notifies
15 the department of a change in family income or family size and
16 provides updated income documentation, as described in
17 subdivision (d).

18 (5) Parents of children placed in 24-hour out-of-home care
19 prior to July 1, 2016, shall have their monthly parental fee
20 recalculated pursuant to the provisions of this section at the time
21 of their annual fee recalculation.

22 (6) The department may grant a temporary waiver from paying
23 the monthly parental fee for parents who substantiate, with
24 receipts, an unavoidable and uninsured catastrophic loss with
25 direct economic impact on the family or significant unreimbursed
26 medical costs associated with care for a child who is a regional
27 center consumer.

28 (f) Parents who remove their child from 24-hour out-of-home
29 care for a home visit for six or more consecutive hours during a
30 24-hour period shall be entitled to a credit equal to one day of the
31 monthly parental fee. A credit shall be calculated by multiplying
32 the parents' monthly parental fee by 12 and dividing that number
33 by the number of days in the year. In order to receive a credit
34 pursuant to this subdivision, parents shall submit a request to the
35 department that is postmarked no later than 60 days after the day
36 for which the credit was earned. Failure to comply with this
37 requirement will result in a denial of the credit by the department.

38 (g) All fees collected shall be remitted to the State Treasury to
39 be deposited into the Program Development Fund established in
40 Chapter 6 (commencing with Section 4670) to provide resources

1 needed to initiate new programs, consistent with approved
2 priorities for the program development in the state plan, or to be
3 used by the department to offset General Fund costs.

4 (h) Parents may appeal a determination of the amount of a
5 monthly parental fee or the denial or amount of a credit requested
6 pursuant to subdivision (f) by submitting a written appeal request
7 to the director within 30 days of the date of the monthly parental
8 fee confirmation letter or credit confirmation or denial letter. An
9 appeal pursuant to this subdivision may consider only disputes
10 concerning the family income used to set the monthly parental fee
11 and the denial or amount of credit. The director, or his or her
12 designee shall, within 30 days after receipt of the appeal, review
13 the assessed monthly parental fee or credit denial or amount for
14 accuracy and provide written notice of the decision to the
15 appellant. The director or his or her designee shall, when deciding
16 an appeal of a monthly parental fee, consider the income
17 documentation and the calculation of the monthly parental fee
18 described in subdivision (e). All decisions regarding monthly
19 parental fee appeals shall be retroactive to the date the appealed
20 monthly parental fee was assessed.

21 (i) This section shall become operative on July 1, 2016.